

In The Court of Commissioner, Saran Division, Chapra
B.L.D.R. Appeal No. 210/2011
Hira Yadav
Vrs.
Indrajit Ram & Ors.

ORDER

29-09-2015 - The instant appeal petition is directed against the impugned order passed by DCLR, Hathua in BLDR case No. 76/2011-12 on 18.11.2011.

The brief facts of the case are that Indrajit Ram S/o Firangi Ram, R/o Vill-Rampur Khurd, P.S.-Kateya, Dist-Gopalganj filed a case under the provision of BLDR Act-2009 before DCLR, Hathua by making the present appellant as o.p. In the said case, the prayer of the present o.p. (petitioner before DCLR) was that the land measuring 2 katha 3 dhur of plot No. 89, khata No. 11 of Mauza Rampur Khurd was his purchased land and having his possession upon which the present appellant were making unlawful interference be restrained. Thereafter, the learned DCLR after hearing the parties finally vide order dt. 18.11.2011 allowed the said petition and declared the interference made by the present appellant as illegal interference and restrained then from making any interference. Feeling aggrieved by the said order, the present appellant has preferred this appeal petition before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant submitted in detail about the genealogy of the vendors of the appellants and vendor of the respondents in order to prove that the respondent does not have any possession over the entire disputed plot. He further submitted that according to appellant the disputed plot originally belonged to Bachan Chamar whereas the respondent claims that the said disputed land belongs to Benga Ram. He also submitted that in view of the complexity of the dispute relating to respective possession and title between the parties, these issue can not be decided without oral evidence. He further argued that DCLR has no jurisdiction to decide the validity of the sale deed and title of the parties as such the impugned order of DCLR is without jurisdiction and hence the impugned order is fit to be set aside.

The learned counsel appearing on behalf of the respondent, while opposing the submissions made by the learned counsel for the appellant, submitted that the disputed land came in the possession of the respondent through sale deed and subsequently he become bonafide purchaser and also got his name mutated in Govt. Revenue records to the knowledge of the appellant and also in chakabandi paper and no objection had been filed against such chakabandi entry. He further argued that the present appellant has no connection with the land in possession of the respondent and in fact the claim over the disputed land is completely false and baseless. He lastly

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submitted that in the instant case there is not question of declaration of right and title but the dispute arose mainly due to unlawful interference by the appellant over the peaceful possession over the land in question and the learned DCLR has not decided the title rather he simply found that the alleged interference of the appellant is illegal as such the impugned order is fit to the upheld.

Considering the facts and circumstances of the case, material available on records, respective arguments advanced by the learned counsel for the parties and on perusal of the impugned order, it is quite obvious that the learned DCLR, although passed a detailed order with respect to the relief sought for by the present o.p. but he confined himself only to the extent of deciding as to whether the so called illegal interference by the appellant over the peaceful possession over the disputed piece of land of the respondent is correct or not. This becomes more explicit from the operative part of the order itself which reads, "अतः वादी द्वारा दाखिल वाद पत्र को स्वीकार किया जाता है कि प्रतिवादियों द्वारा प्रशनगत भूमि में वादी के अधिकार पूर्ण कब्जे में किए जा रहे हस्तक्षेप को गैर कानुनी घोषित करते हुए उन्हें आदेश दिया जाता है कि वादी के कब्जे में किसी प्रकार से हस्तक्षेप नहीं करे"। Thus, it is quite evident that neither the DCLR has declared any title of the parties nor any relief for the declaration of the same was sought for by the present respondent before DCLR. The claim of the appellant is that the learned DCLR's order is without jurisdiction as he decided the title of the parties. This contention seems to be unacceptable in view of the findings recorded by the DCLR with regard to the nature of dispute involved between the parties. Obviously, therefore, it appears that there is no infirmity in the impugned order of DCLR with regard to his findings so far as operative portion of the said order is concerned because of the fact that dispute relating to claim of right and title has not been decided in the instant case.

With the aforementioned observations, this appeal petition is disposed of.

Dictated and Corrected by me.

6/29-9-15
Commissioner,
Saran Division, Chapra

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Commissioner,
Saran Division, Chapra